

OCT 30 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

RUTH E. GILBERT,

Plaintiff-Appellant,

v.

STAR BUILDING SYSTEMS,

Defendant-Appellee.

No. 97-6021
(D.C. No. 95-CV-1932)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before BALDOCK, BARRETT, and MURPHY, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff appeals the district court's decision granting defendant summary judgment on plaintiff's claims that defendant violated the Family and Medical Leave Act (FMLA), see 29 U.S.C. §§ 2601-2654, Title VII, see 42 U.S.C. §§ 2000e to 2000e-17, and Oklahoma public policy when it terminated plaintiff's employment.¹ This court reviews a summary judgment decision de novo, viewing the record in the light most favorable to the nonmoving party. See Dye v. United States, 121 F.3d 1399, 1403-04 (10th Cir. 1997). Summary judgment is appropriate only if there are no genuinely disputed issues of material fact and the moving party is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c).

We affirm the district court's decision for substantially the reasons stated in its order dated November 15, 1996. Although the district court did not specifically address plaintiff's claim that defendant had violated its duty to post notice of FMLA rights, see 29 U.S.C. § 2619(a), summary judgment was appropriate on that claim as well. See Blumenthal v. Murray, 946 F. Supp. 623,

¹ Plaintiff filed a Fed. R. Civ. P. 60 motion for reconsideration after she filed her notice of appeal from the district court's summary judgment decision. Because she did not file a separate notice of appeal from the district court's denial of her motion for reconsideration, however, this court does not have jurisdiction to review that decision. See Williams v. Chater, 87 F.3d 702, 705 and n.1 (5th Cir. 1996).

626-27 (N.D. Ill. 1996) (private litigant has no basis to seek relief for employer's violation of FMLA's requirements for posting notice), and cases cited therein.

The judgment of the United States District Court for the Western District of Oklahoma is AFFIRMED. Plaintiff's motion to expedite this appeal is DENIED as moot. Plaintiff's other pending appellate motions and her request for appointment of counsel are DENIED.

Entered for the Court

Michael R. Murphy
Circuit Judge